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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 EFRAIN CHAVARIN-ARREOLA,
10 Petitioner,
11 vs.
12 ROBERT LeGRAND, *et al.*,
13 Respondents.

Case No. 3:14-cv-00009-LRH-WGC
ORDER

15 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254
16 by a Nevada state prisoner.¹ On February 20, 2015, this Court granted respondents' motion for a
17 more definite statement and ordered petitioner to file an amended petition within twenty days. (ECF
18 No. 11). The amended petition was due on March 12, 2015. To date, petitioner has failed to file an
19 amended petition or otherwise respond to the Court's order.

20 District courts have the inherent power to control their dockets and "in the exercise of that
21 power, they may impose sanctions including, where appropriate . . . dismissal of a case." *Thompson*
22 *v. Housing Auth.*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice,
23 based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply
24 with local rules. *See, e.g. Pagtalunan v. Galaza*, 291 P.3d 639, 643 (9th Cir. 2002) (dismissal of
25 habeas corpus petition with prejudice for failure to prosecute action and failure to comply with a

27 ¹ Petitioner was incarcerated at the Lovelock Correctional Center when he filed this action.
28 (ECF No. 1). The Court notes that petitioner's change of address, filed September 22, 2014,
indicates that petitioner resides at a street address in North Las Vegas, Nevada. (ECF No. 9).

1 court order); *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with
2 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to
3 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41
4 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep
5 court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)
6 (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th
7 Cir. 1986) (dismissal for failure to lack of prosecution and failure to comply with local rules).

8 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
9 order, or failure to comply with local rules, the court must consider several factors: (1) the public's
10 interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk
11 of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits;
12 and (5) the availability of less drastic alternatives. *Pagtalanun*, 291 F.3d at 642; *Thompson*, 782
13 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-
14 61; *Ghazali*, 46 F.3d at 53.

15 The Court finds that the first two factors, the public's interest in expeditiously resolving this
16 litigation and the Court's interest in managing the docket, weigh in favor of dismissal. The third
17 factor, risk of prejudice to respondents, also weighs in favor of dismissal, since a presumption of
18 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
19 prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
20 factor – public policy favoring disposition of cases on their merits – is greatly outweighed by the
21 factors in favor of dismissal discussed herein. Finally, a court's warning to a party that his failure to
22 obey the court's order will result in dismissal satisfies the “consideration of alternatives”
23 requirement. *Pagtalanun*, 291 F.3d at 643; *Ferdik v. Bonzelet*, 963 F.2d at 1262; *Malone*, 833 at
24 132-33; *Henderson*, 779 F.2d at 1424. This Court's order requiring petitioner to file an amended
25 petition within twenty days expressly stated: “It is further ordered that if petitioner fails to comply
26 with this order, this action will be dismissed with prejudice.” (ECF No. 11, at p. 3). Thus,
27 petitioner had adequate warning that dismissal would result from noncompliance with the Court's
28 order.

1 **IT IS THEREFORE ORDERED** that this action is **DISMISSED WITH PREJUDICE**
2 based on petitioner's failure to file an amended petition in compliance with this Court's order of
3 February 20, 2015.

4 **IT IS FURTHER ORDERED** that the Clerk of Court shall enter judgment accordingly.

5 DATED this 28th day of October, 2015.

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10 LARRY R. HICKS
11 UNITED STATES DISTRICT JUDGE
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